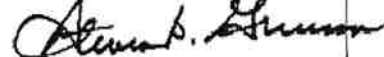


# **EXHIBIT “A”**

## **PLAINTIFFS’ COMPLAINT AND DEMAND FOR JURY TRIAL**

# **EXHIBIT “A”**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHELLE MAITA and ROBERT MAITA,  
individually and as husband and wife,

Plaintiffs,

vs.

JOSEPH MCDONALD, individually;  
HOLBROOK ASPHALT, LLC, a foreign  
limited company; DOES I through XX,  
inclusive; and ROE CORPORATIONS I  
through XX, inclusive,

Defendants.

CASE NO.: A-19-788692-C

DEPT. NO.: Department 1

**PLAINTIFFS' COMPLAINT AND  
DEMAND FOR JURY TRIAL**

Plaintiffs, MICHELLE MAITA and ROBERT MAITA, by and through their counsel of  
record, BRADLEY S. MAINOR, ESQ., JOSEPH J. WIRTH, ESQ. and ASH MARIE GANIER,  
ESQ., of MAINOR WIRTH, LLP, hereby complain and Defendants, and each of them, as  
follows:

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## I.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. That at all times relevant hereto, Plaintiff MICHELLE MAITA, is and was a resident of the County of Clark, State of Nevada.

2. That at all times relevant hereto, Plaintiff ROBERT MAITA, is and was a resident of the County of Clark, State of Nevada.

3. That Plaintiffs are informed and believe, and thereupon allege, that Defendant, HOLBROOK ASPHALT, LLC (hereinafter "HOLBROOK"), is, and at all times relevant hereto was, a foreign limited liability company and lawfully conducting business in Clark County, State of Nevada.

4. That Plaintiffs are informed and believe, and thereupon allege, that Defendant JOSEPH MCDONALD is, and at all times relevant hereto, was a resident of the State of Nevada.

5. That all the facts and circumstances that give rise to the subject lawsuit occurred on East Russel Road at the intersection of Annie Oakley Drive in Las Vegas, State of Nevada, County of Clark.

6. That the identities of the Defendants, DOES I through XX, are unknown at this time and may be individuals, partnerships or corporations. Plaintiff alleges that each of the Defendants designated herein as DOE DEFENDANTS are responsible in some manner for the damages herein alleged. Plaintiff requests leave of the Court to amend this Complaint to name the Defendants specifically when their identities become known.

7. That the names and capacities, whether individual, corporate, associates, co-partnership, or otherwise of Defendants named herein as ROE CORPORATIONS I through XX, inclusive, are unknown to Plaintiff who therefore sue said Defendants by such fictitious names. Plaintiff will ask leave to amend this Complaint to substitute the true names of said Defendants when their identities become known. Plaintiff is informed and believes and thereupon alleges that the Defendants so designated herein as ROE CORPORATIONS I through XX, inclusive, are

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1 responsible in some manner for their agency, master/servant or joint venture relationship with  
2 said Defendants, or otherwise contributed to, as a proximate cause, the events complained of  
3 herein.

4 **II.**

5 **FIRST CAUSE OF ACTION**  
6 ***Negligence as to Defendant JOSEPH MCDONALD***

7 8. Plaintiffs repeat, reallege, and incorporate by reference Paragraphs 1 through 7  
8 above as if fully set forth herein.

9 9. At all times herein relevant, Defendant JOSEPH MCDONALD (hereinafter  
10 "MCDONALD") and/or DOES I through XX, are/were the owners and/or operators of a certain  
11 2017 Ford F-450 Utility Truck with trailer attached, filled with asphalt and/or an unknown  
12 material and/or supplies, which was involved the subject motor vehicle crash.

13 10. On or about June 19, 2017, Plaintiff MICHELLE MAITA was operating her 2015  
14 Dodge Challenger, traveling in the number one travel lane northbound on Annie Oakley Road at  
15 the intersection with Russell Road. Plaintiff was proceeding through the intersection with Russell  
16 Road.

17 11. Defendant MCDONALD was operating the 2017 Ford F-450 Utility Truck with  
18 trailer eastbound on Russell Road in the number one travel lane of three travel lanes, approaching  
19 Annie Oakley Road. Upon information and belief, the trailer that Defendant MCDONALD was  
20 pulling was negligently filled with a weight of material that could not safely be pulled by his  
21 utility truck. Defendants knew and/or should have known that the weight of the trailer and the  
22 material contained therein was unsafe for transport.

23 12. Due to the weight of the trailer and/or Defendant MCDONALD's negligence in  
24 operating the truck and trailer, Defendant MCDONALD failed to obey a red traffic signal and  
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26  
27  
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1 entered the intersection. This action caused the front right of his vehicle to collided with the right  
2 side of Plaintiff MICHELLE MATIA'S vehicle. The impact was so forceful that it caused  
3 Plaintiff's vehicle to be thrown into a traffic pole, which was also displaced in the collision. As a  
4 result of the collision, Plaintiff MICHELLE MAITA sustained major property damage and  
5 suffered substantial bodily injuries and emotional distress.

6 13. Upon information and belief, Plaintiffs allege that Defendants, including DOES I  
7 through XX and/or ROE CORPORATIONS I through XX, were the owners, employers, family  
8 members and operators of said motor vehicle, while in the course and scope of employment  
9 and/or family purpose, which was entrusted and driven in such a negligent and careless manner so  
10 as to strike Plaintiff's vehicle while she was lawfully operating her vehicle in Clark County,  
11 Nevada.

12 14. As a direct and proximate result of Defendants' negligence, and each of them,  
13 Plaintiff MICHELLE MAITA was seriously injured and caused to suffer great pain of body and  
14 mind, all or some of which may be permanent and disabling in nature, aggravating to her general  
15 and compensatory damages in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

16 15. As a further direct and proximate result of the negligence of Defendants, and each  
17 of them, Plaintiff MICHELLE MAITA incurred expenses for medical care, treatment and  
18 expenses incidental thereto, and Plaintiff may be required in the future to incur expenses for  
19 medical care and treatment.

20 16. Plaintiffs have been required to retain the services of MAINOR WIRTH to  
21 prosecute this action and is entitled to reasonable attorney's fees and costs incurred herein.

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III.

**SECOND CAUSE OF ACTION**  
***Negligence as to HOLBROOK ASPHALT, LLC***

17. Plaintiffs repeat, reallege, and incorporate herein by this reference, each and every allegation contained in Paragraphs 1 through 16 set forth above as though fully set forth herein.

18. At said time and place, Defendant HOLBROOK ASPHALT, owed a duty to manage and monitor the operations and behavior of its employees in a reasonable and prudent manner.

19. In complete disregard of its duty, Defendant HOLBROOK knowingly allowed its employee to operate, for business purposes, the 2017 Ford F-450 Utility Truck with trailer attached, filled with asphalt and/or an unknown material and/or supplies that struck Plaintiff's vehicle.

20. Upon information and belief, the trailer that Defendant MCDONALD was pulling was negligently loaded with a weight of material that could not safely be pulled by his utility truck. Defendants knew and/or should have known that the weight of the trailer and the material contained therein was unsafe for transport.

21. Defendant MCDONALD's vehicle and/or trailer was loaded with material in such a reckless, negligent and careless manner so as to cause a serious collision with Plaintiff's vehicle.

22. Defendant MCDONALD's vehicle was driven in such a reckless, negligent and careless manner so as to cause a serious collision with Plaintiff's vehicle.

23. As a direct and proximate result of Defendant's negligence, Plaintiff MICHELLE MAITA was seriously injured and caused to suffer great pain of body and mind, all or some of which may be permanent and disabling in nature, aggravating to her general and compensatory damages in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

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25. Plaintiffs have been required to retain the services of MAINOR WIRTH to prosecute this action and is entitled to reasonable attorneys' fees and costs incurred herein.

**THIRD CAUSE OF ACTION**  
***Respondent Superior as to HOLBROOK ASPHALT, LLC***

27. On June 19, 2017, Defendant MCDONALD was an employee of Defendant HOLBROOK ASPHALT, LLC and was acting within the course and scope of his employment.

29. At all relevant times herein, HOLBROOK ASPHALT, LLC employed Defendant MCDONALD with the intent for him to use the 2017 Ford F-450 Utility Truck with trailer attached filled with asphalt and/or an unknown material and/or supplies.

31. Defendant HOLBROOK ASPHALT, LLC negligently employed Defendant



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MCDONALD as a driver, evidenced by the significant motor vehicle crash he caused with Plaintiff's vehicle.

32. Defendant HOLBROOK ASPHALT, LLC negligently employed Defendant MCDONALD and/or DOES I through XX, who negligently loaded the subject trailer in an unsafe manner.

33. As a direct and proximate result of the negligence of Defendant HOLBROOK ASPHALT, LLC, Plaintiff MICHELLE MAITA was seriously injured and caused to suffer great pain of body and mind, all or some of which may be permanent and disabling in nature, aggravating to her general and compensatory damages in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

34. As a further and direct and proximate result of the negligence of HOLBROOK ASPHALT, LLC, Plaintiff MICHELLE MAITA incurred expenses for medical care, treatment and expenses incidental thereto, and Plaintiff may be required in the future to incur expenses for medical care and treatment.

35. Plaintiffs have been required to retain the services of MAINOR WIRTH to prosecute this action and is entitled to reasonable attorneys' fees and costs incurred herein.

V.

**FOURTH CAUSE OF ACTION**  
*Negligent Hiring, Training, Retention, and Supervision as to*  
**HOLBROOK ASPHALT, LLC**

36. Plaintiffs repeat, reallege, and incorporate by reference paragraphs 1 through 35 above as if fully set forth herein.

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37. That based upon information and belief, Plaintiffs allege that Defendants, and each of them, were negligent in the selection, hiring, training, supervision and/or retention of their employees, agents, servants, partners, associates, and/or associations at all times relevant herein.

38. Defendants, and each of them, are vicariously liable for damages resulting from their employees', agents', servants', partners', associates' and/or associations' negligent actions against Plaintiff, during the scope of employment.

39. Defendants, by and through their employees, agents, servants, partners, associates, and/or associations breached their duty of care by failing to put into place safety protocols when they knew or should have known that their employees and/or agents and/or servants might cause a high risk to innocent parties.

40. As a direct and proximate result of the conduct of Defendants described hereinabove, Plaintiff has sustained damages in excess of Fifteen Thousand Dollars (\$15,000.00).

41. Plaintiffs have been required to retain the services of MAINOR WIRTH to prosecute this action and is entitled to reasonable attorneys' fees and costs incurred herein.

## VI.

### **FIFTH CAUSE OF ACTION**

#### ***Negligence Per Se as to Defendant JOSEPH MCDONALD***

42. Plaintiffs repeat, re-allege and incorporate by reference Paragraphs 1 through 41 above as if fully set forth herein.

43. At all times mentioned herein, there were in force statutes, ordinances, and regulations (NRS 484B.307) prohibiting the conduct exhibited by Defendant JOSEPH MCDONALD.

44. Plaintiffs are members of the class of persons for whose protection said statutes, ordinances, and regulations were enacted or promulgated.

45. Plaintiff MICHELLE MAITA sustained injuries that were the type which said statutes, ordinances and regulations were intended to prevent.

...

47. Plaintiffs have been required to retain the services of MAINOR WIRTH to prosecute this action and is entitled to reasonable attorneys' fees and costs incurred herein.

### SIXTH CAUSE OF ACTION

48. Plaintiffs repeat, re-allege, and incorporate herein by this reference, each and every allegation contained in Paragraphs 1 through 47 set forth above as if fully set forth herein.

50. As a direct and proximate result of the negligence and carelessness of said Defendants, and each of them, Plaintiff ROBERT MAITA, has been denied the society, comfort, affection, services, companionship and consortium of his wife MICHELLE MAITA.

## PRAYER FOR RELIEF

1. General damages in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00);

2. Special damages for past and future medical treatment and costs incidental thereto, when the same have been fully ascertained;

3. Damages related to the lost wages and/or future loss of earning capacity;

4. Punitive damages;

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5. Prejudgment interest;
  6. Reasonable attorney's fees;
  7. Costs of suit herein; and
  8. For such other and further relief as the Court may deem proper.
- DATED this \_\_\_\_\_ day of February, 2019.

**MAINOR WIRTH, LLP**

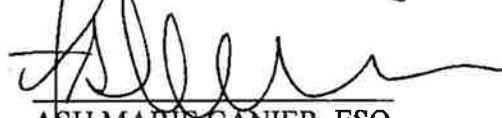
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5. Prejudgment interest;
6. Reasonable attorney's fees;
7. Costs of suit herein; and
8. For such other and further relief as the Court may deem proper.

DATED this 1 day of February, 2019

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